

# ARBITRALWOMEN

The International Network of Women in Dispute Resolution

## President's Column



The perceived benefit of a Summer spent lounging around, soaking up the sun, disengaging the mind from work related stresses, spending time with family and friends and recharging the batteries in readiness for another fruitful, successful, healthy and happy year ahead are manifold. For some people, however, the Summer does not provide the rest and relaxation that can lead to clarity in thinking and reasoning.

As Summer ended and we entered the early days of Autumn, the legal profession was rocked by the disappointing views on gender diversity in the English judiciary made publicly by Lord Sumption, a judge in the apex court, the Supreme Court.

Amongst many irresponsible and out-of-touch views, Lord Sumption said that it could take about 50 years for the achievement of gender equality in the judiciary and that women should be patient. He also said that the pro-women bias could put off talented men! It is not worth reiterating what he said as I do not want to give it any more airspace, but what makes it shocking is that someone like, and in the position of, Lord Sumption should say what he did. There is no such thing as natural progression or improvement of the essentially unfair, unjust and unjustifiable situation of gender bias.

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*ArbitralWomen thanks all contributors, and Alix Povey for her help in preparing this Newsletter.*

*Join ArbitralWomen's LinkedIn group or follow us on Twitter.*

It requires action but more importantly it requires a social and psychological shift to ensure people who are in a position to bring about those changes are on board. Change cannot be effected by sitting back and watching the grass grow.

Too many people talk the talk but in reality fail to deliver. Many organisations, firms, companies, universities, even the Judicial Appointments Commission (responsible for judicial appointments) claim they are committed to diversity and to gender equality, equality of opportunity and equality of treatment. Unfortunately, these claims to commitment are not translated into action and the final result remains static. Annually, we see meagre growth (if any) but figures remain unrepresentative of the gender and ethnic mix in society.

It is maddening and frustrating to read day in day out reports of senior players in the legal profession (but also in other industries) suggesting that there is a natural course to these things.

How does that come about if the same line of unimaginative and lazy progression is perpetuated - without any possible justification for the continuation of that status quo?

Lord Sumption has set the clock back by at least half a century.

I would prefer not to have to go through the woeful figures that show the very bad position of women not just in the law but in the corporate world. We do, however, need to remind ourselves of why it is we need to continue working hard to achieve our objectives. The recent **Lean In McKinsey report Women in the Workplace 2015** makes sobering reading. The key findings from that report are:

- Based on employee pipeline data from 118 companies in 2015 and 60 companies in 2012, two broad themes emerge: women are still underrepresented, and they face real barriers to advancement.
- Women, on average, are leaving their organizations at the same or lower rates as men. Most notably, women in leadership are more likely to stay with their company than their male counterparts (this is usually used as the reason for the lack of women at higher levels).
- If women were advancing at similar rates to men, companies would see the same share of women from one level to the next. However, that is not the case. Across levels, the expected representation of women is 15 percent lower than that of men. This suggests that women face greater barriers to advancement.

The attitudes of the women and men interviewed for the report also demonstrates the sometimes desperately hopeless position women can find themselves in when they contemplate their professional future:

- ❖ Based on a survey of nearly 30,000 employees from thirty-four companies, there is compelling evidence that women are disadvantaged by company practices and culture - and in some cases, men are disadvantaged, too.
- ❖ Only 10% of senior-level women report that four or more executives have helped them advance compared to 17% of senior-level men.
- ❖ There is a great distortion between reality and perception:

- only one in nine men believes that women have fewer opportunities than men, and
- 13% of men believe it is harder for men to advance because of gender diversity programmes!

You can find the full report here:

[http://www.mckinsey.com/insights/organization/women\\_in\\_the\\_workplace](http://www.mckinsey.com/insights/organization/women_in_the_workplace)

These reports and pronouncements by learned men only cement my resolve to continue fighting to improve the position of women everywhere. This edition of the Newsletter is jam-packed with all the good work we are doing to ensure that the plight of women in the law is not forgotten or relegated to something that can be achieved only in and over time.

Firstly, we have a report on the very successful first SpeedNet event held in Berlin on 21 September, organised by **Mirèze Philippe** and Vice President **Gabrielle Nater-Bass** with the help of **Inka Hanefeld**, ArbitralWomen member, and **Francesca Mazza**, Secretary General of the German Institution of Arbitration (DIS) who hosted the event.

On 23 September, in London, I chaired an extraordinary event with four female quantum expert panellists. The event was graciously hosted by **White & Case**. The event was so well received and interesting that we have decided to replicate it in other jurisdictions. We have also decided to reproduce much of what was said and dealt with in our report. My thanks to **Clare Connellan** of White & Case for her support, organisational skills and preparation of the report.

Our now traditional breakfast on the first morning of the **IBA Conference** held on 5 October was also a huge success, with a full house, and addressed: *“What happens after an arbitration award is annulled? Is the Arbitral Tribunal functus officio? Should it go back to the same Arbitral Tribunal or a new one?”* Our gratitude to the **Vienna office of CHSH** for hosting this event and, in particular, to **Hon-Prof. Dr Irene Welser**. Again, **Gabrielle Nater-Bass** put this event together.

An impromptu SpeedNet event, AW SpeedNet with Dim Sum was held in Hong Kong on 29 October during Hong Kong Arbitration Week, organised by **Louise Barrington** and hosted by **Stephenson Harwood**.

On 3 November, **Mirèze Philippe** and **Ana Carolina Weber** organised the first ICC-AW joint event as part of the **13<sup>th</sup> ICC Miami Conference** on “*Unconscious Bias in International Arbitration*”. The huge success of this topic proves the need to continue this debate and to replicate the event in order to enable practitioners from various jurisdictions to participate and raise awareness. The event was sponsored by **Carvalhosa e Eizirik Advogados** and **Motta, Fernandes Rocha Advogados**.

On 17 November, I chaired an event during the **Dubai Arbitration Week**, graciously hosted by **Freshfields** and **Vannin Capital**. **Lucy Reed** and **Dr Habib Al Mulla** joined Moderator **Yasmin Mohammad**. The panel debated the role and effect of female counsel and female arbitrators in arbitration. The turnout for the event was beyond expectations and, with their active participation, produced fiery and exciting interactions with the audience.

All events proved to be very successful and are reported in this Newsletter.

I do not wish to end on a sad note but I cannot let pass the recent events in Paris without comment. It seems that in the wake of many celebrations and every day occurrences, there is always danger lurking in the shadows. As I complete this column, I, along with the rest of the free world, am once again saddened by the horrific and barbarous events that took place in Paris on 13 November. We have many members in France who work tirelessly for peace. Incomprehensible events such as these test our resolve. The French have shown time and again that they will not be bent to the will of ignorant tyrants who want to oppress and destroy a whole way of life. We stand shoulder to shoulder with France in solidarity and in the quest for peace. Our thoughts and prayers are with each one of them, their friends and loved ones.

I want to end, however, on a positive note that reflects the continuing recognition that ArbitralWomen is receiving. On 9 November 2015, ArbitralWomen was granted Observer status for all sessions of **UNCITRAL Working Group II (Arbitration and Conciliation)**. This means that ArbitralWomen will be included in the list of non-governmental organisations eligible for invitation to the sessions. This takes effect from the 64th session of the Working Group on 1-5 February 2016 in New York. This is a very significant achievement for ArbitralWomen.

This important global recognition has only been made possible due to the initiative of and hard work by **Ileana Smeureanu**, one of our Board Members. Through this achievement, Ileana has helped put ArbitralWomen on a different plane. We are all grateful for her hard work in getting this through, as I am grateful for the hard work of all of the Board.

Finally, I wish to thank **Beata Gessel** for her work in her role of Director of Events. She has had to step down after many years as she is preparing an habilitation in Oxford. The AW Board has co-opted **Clare Connellan** to replace Beata in this important position. We wish Beata and Clare all success.

Until next time, go well, go safely with your head held high.

*Rashda Rana*



*Rashda Rana SC, Essex Chambers, AW President*

# THE SAD NEWS OF A MAJOR LOSS

Arthur L. Marriott

30 March 1943 – 4 September 2015



Early Saturday morning, on the 4th of September, the international legal profession lost one of its beloved "gods" and ArbitralWomen one of our most recently crowned illustrious Honorable Men.

After a long and frustrating period of weakening health, following a major heart attack and stroke suffered in Rio in late 2012, **Arthur Marriott QC** passed away peacefully, surrounded by his grandchildren, daughter and sister, in a nursing facility in Pimlico, UK. A significant chunk of the world is still mourning.

Arthur's passing marks the third significant loss to the UK Dispute Resolution Bar this year, after that of **Lord Michael Mustill** in April and **Colin Wall** (of Hong Kong) in July.

It is fortunate that we were able to celebrate his achievements and his contribution to women in our profession in time for him to be able to enjoy and bask in the appreciation vested upon him as one of ArbitralWomen's valued Honorable Men.

Arthur Marriott was one of the last of the "old style" lawyers, of classic impeccable, and oh so persuasive, argument. He himself observed that if he stood up and read the telephone book he would have his audience entranced and persuaded to his view. This finely honed gift for oratory may take its roots from his maternal grandmother, who had been one of Glasgow's avid fighters for woman's suffrage.

Respect for his grandmother may also have influenced Arthur's completely non-chauvinistic view of women colleagues, to whom he would relate based upon their wisdom, expertise and performance, no differently than he did to men. He certainly seemed to prefer working with women than with men, as he tended to hire and promote quite a number over the years.

Although perceived by many as highly aristocratic in bearing, Arthur came from relatively humble, working class stock. His father was a union official and Labour party politician and his mother a nurse.

Among the numerous obituaries which have been published, probably the most comprehensive summary of Arthur's life and career was provided by **Alison Ross** for the **Global Arbitration Review**, based primarily on inputs from **Neil Kaplan** and **Paul Cohen**. Rather than summarise the same information from the same sources we instead insert, with her permission, Ms. Ross' review hereinbelow (excluding the Tributes featured in her article).

Arthur, we will all miss you greatly. This writer will indeed, as over the past years Arthur assisted her in a number of investor-state arbitrations on behalf of the Indonesian government (in all of which she is pleased to report we were successful.)

*Karen Mills*  
*KarimSyah Law Firm, Jakarta*

## **Arthur Marriott QC 1943 – 2015 by Alison Ross**

### **Global Arbitration Review**

**Tuesday, 8 September 2015**

<http://globalarbitrationreview.com/news/article/34121/arthur-marriott-qc-1943-2015/> (this press-release is reproduced with the kind permission of GAR)

**Arthur Marriott QC**, a leading arbitration specialist and the most recent winner of GAR's lifetime achievement award, has died aged 72.

#### **Arthur Marriott QC**

A solicitor practising in the field of international arbitration since the early 1970s, Marriott worked on some of the more significant cases of the past decades, while at law firms including Wilmer Cutler Pickering Hale and Dorr, Debevoise & Plimpton and Dewey & LeBoeuf.

Having spearheaded the development of mediation in Hong Kong, he collaborated with mediator **Henry Brown** on one of the first books on alternative dispute resolution principles and practice to be published in the UK in the 1990s and saw it run to three editions, the latest of which was published in 2011.

He was also a principal proponent of the reform of English legislation governing arbitration, which resulted in the passing of the Arbitration Act 1996.

For that and other achievements, he became the first solicitor to be made Queen's Counsel in England in 1997, alongside **Lawrence Collins** (now Lord Collins of the UK Supreme Court).

In later life, he converted to being a barrister, setting up his own chambers and becoming an honorary bencher of Gray's Inn. He was also part of the board of the International Council of Commercial Arbitration and advised on International Bar Association projects.

As well as his achievements in Hong Kong and England, Marriott left his mark in arbitration jurisdictions including Brazil and India and mentored many specialists in the field.

Marriott suffered a stroke in Rio de Janeiro in 2012, which left him physically impaired and confined to a wheel-chair. His last public appearance was at a GAR dinner in London on 7 May to receive his lifetime achievement award, when he spoke, with great difficulty but great eloquence, about the challenges of

practising law in the modern age, the potential to use technology, and the need for lawyers to serve the most vulnerable in society.

He died on 4 September after succumbing to an infection.

This obituary has been prepared using information supplied by **Neil Kaplan QC**, who first got to know Marriott in the 1970s and delivered the tribute to him at the GAR dinner, and **Paul Cohen** of Perkins Coie, who worked closely with him over the past 20 years.

#### **Humble beginnings**

Marriott was born in Blantyre in Scotland in March 1943 and lived there until his family moved to south London in 1948.

The family was comfortable but not particularly well off. As Cohen says, "*You'd never have guessed Arthur's relatively humble origins from the Central Casting power lawyer we all knew.*"

His mother was a nurse, who met his father during his convalescence from a war wound. His father was a trade union official and councillor in the London borough of Lambeth who was involved with Labour party politics (one of Marriott's prized possessions in later life was a note autographed by party members including Hugh Gaitskell and Clement Attlee).

While Marriott described his father as "a marvelous public speaker", he said he owed his analytical mind to his mother. He also had a forceful role model in his maternal grandmother, who had been a suffragette in Glasgow.

At grammar school in south London in the 1950s, Marriott excelled in history and languages but not in maths. He developed into a fluent German speaker in part thanks to his family's hospitality to visitors from Germany, including a group of social democrats from the Rhineland who came to study local government.

He visited Berlin and Bayreuth as an exchange student, including spending time with a German judge's family, which he said gave him early insights into the civil law system.

According to Kaplan, one of Marriott's sixth form teachers once said, "*I wish I knew as much about anything as Arthur knows about everything*". After leaving school, he toyed with the idea of a career in politics (Kaplan called him "*the greatest MP who never was*") but instead chose to pursue law.

### 1960s to 1980s

In the early 1960s, it was possible to embark on a legal career in England without going to university. Marriott did the requisite clerkship and was admitted as a solicitor in 1966. He was able to find a position as an associate under **Sir Eric Fletcher**, a Labour party grandee and prominent lawyer at what was then Denton Hall & Bergin (a predecessor of Dentons).

Initially, Marriott's focus was on libel matters, with London Weekend Television as a key client. His first experience of international commercial arbitration came in 1971: a construction dispute over a trans-Alpine tunnel.

As he told an interviewer many years later, *"I enjoyed the challenge of advocacy, so I increasingly focused on international commercial arbitration, where I could not only manage the overall strategy of cases as a solicitor tends to do, but also appear and argue before tribunals without hindrance."* At the GAR dinner, Kaplan spoke of his "flawless advocacy", without repetition or hesitation.

After leaving Dentons, Marriott led a group of English lawyers looking for opportunities in China as its legal market started to open up in tandem with Deng Xiaoping's economic reforms. He was admitted to practice in Hong Kong and worked there as an independent practitioner in alliance with Masons (now Pinsent Masons).

He secured major international arbitration instructions, including for French construction company Dragages in a case over the Plover Cove Dam in Hong Kong, which was then the largest dam in the world.

Noting the dissatisfaction of Hong Kong contractors with the long wait to be paid for their work, especially by government bodies, Marriott devised and implemented a highly successful mediation scheme that is now a firmly embedded part of the Hong Kong legal system. He was later to introduce the same system to the UK through his book with Brown.

In the early 1980s, Marriott acted for Royal Dutch Shell against the government of Qatar in what was then the largest ever arbitration dispute. His opponent was **Anthony Evans**, later an English Court of Appeal judge and Chief Justice of the Dubai International Financial Centre.

The case ran contemporaneously with the *Aminoil* arbitration between the American Independent Oil Company and Kuwait that helped make the reputation of **Alan Redfern** and **Martin Hunter** at Freshfields Bruckhaus Deringer.

### US firms in London

Marriott returned to London in 1988 but never again worked for a UK firm. At WilmerHale, the first of three US firms to employ him over a 20 year period, he advised Greenpeace on its claim against France over the sinking of its ship the *Rainbow Warrior*, which had been protesting against nuclear testing in French Polynesia,

Marriott worked on a team led by one of the firm's founding partners, Washington power broker **Lloyd Cutler** (who was later White House counsel to Jimmy Carter and Bill Clinton). Also on the team was the young, up-and-coming lawyer **Gary Born**.

In 1997, Marriott moved to Debevoise & Plimpton, where he established the arbitration practice in London with **Mark Friedman** and **Karolos Seeger**, working alongside the New York practice led by **David W Rivkin** and **Donald Donovan**. At the time, Debevoise was perhaps the only law firm to field a strong arbitration presence in both London and New York, although others soon did so.

Marriott continued to be involved in some of the biggest arbitrations of the day, including a dispute over telecommunications in the London Underground and the case that arose from the demise of Enron's Dabhol power plant in India.

He was also an arbitrator in a major ICSID arbitration between Norwegian telecoms company Telenor and Hungary.

Alongside his arbitration work, he appeared in complex litigation and as a deputy High Court judge in the Commercial Court and on mental health review tribunals.

### The 1996 act

By the time he joined Debevoise, Marriott was already a QC and well known thanks to his mediation book and contribution to the 1996 Arbitration Act. A departmental advisory committee set up by the government of Margaret Thatcher advised against the UK's adoption of the UNCITRAL Model Law in 1989 but suggested a modest attempt at new legislation via a privately-funded bill.

At the GAR dinner, Kaplan told how Marriott was convinced that the UK needed a new act or London would lose its competitive edge. He gathered a small group of practitioners who agitated for a new act and raised money to fund the drafting of an ambitious new bill.

It was not what parliament had in mind but, following a change of leadership from **Lord Mustill** to **Lord Steyn**, the departmental advisory committee accepted that such a bill was what needed. Marriott was made part of the committee along with leading arbitration specialist **VV Veeder QC**.

In the words of Kaplan, *“This was the turning point, without which the 1996 act would not have seen the light of day. Arthur was at the centre of it [as] our first arbitration politician.”*

*“Thanks to him, the long term prosperity of London as a major arbitral venue was secured.”*

Marriott also contributed to London’s success by helping fund the creation of London’s hearing centre, the International Dispute Resolution Centre (IDRC).

### **Dewey & LeBoeuf**

As he approached the mandatory retirement age at Debevoise in 2005, Marriott moved to his third US law firm, LeBoeuf Lamb Greene & McRae, which merged with Dewey Ballantine two years later to form Dewey & LeBoeuf.

The firm would later famously implode. But back in the mid-2000s it boasted a formidable arbitration group that included **Eric Schwartz** and **James Castello** and young practitioners **Daniel Gal**, **Deborah Ruff**, **Thomas Geuther** and Cohen (Marriott’s protégés).

Marriott co-headed the international arbitration group with Schwartz and co-founded the global investigations and defence group with Cohen, with whom he also produced a 2010 book on international corruption.

While at Dewey, Marriott also conducted successful representations for Ghana and Indonesia and acted for the controversial Colorado oil company RSM Petroleum in ICSID proceedings against the government of Grenada and associated litigation.

In this period, he also became known for his work in Brazil, where he acted in cases alongside leading practitioners **Francisco Müssnich** and **Sergio Bermudes**.

India was also an area of focus. In a country where the courts were notoriously clogged with cases, Marriott saw the potential for the development of a virtual arbitration platform and advised on leading lawyer **Shardul Shroff**’s launch of an online service with rules drawing on those of the ICC, LCIA and SIAC.

### **A homecoming**

At the end of 2010, Marriott left Dewey to start out again, this time as a barrister. With Cohen and his old friend and co-author Brown (who had also become barristers), he founded a new chambers at 12 Gray’s Inn Square, round the corner from where Dentons had been 40 years earlier.

There, he nurtured another generation of young talent, including **Mahnaz Malik** and **Zannis Mavrogordato**, now both at 20 Essex Street.

Door tenants at the chambers included **Shardul Shroff** and **Chico Müssnich**, neither of whom were barristers but came from jurisdictions that did not recognise the distinction between barristers and solicitors.

Marriott was delighted at being back in Gray’s Inn, telling one legal publication, *“It feels like coming home”*. **Jan Hammond**, Marriott’s personal assistant for over 30 years, says that the opening of the chambers was one of the happiest days of both their lives.

According to Cohen, Marriott kept up his work as arbitrator and counsel *“with the vigour of a man half his age”* until his stroke in Rio.

*“He never made a full recovery, but even as shadow of his former self, had spells of remarkable eloquence and prescience,”* Cohen says, pointing to his speech at the GAR dinner as an example.

In the past year, Marriott was also honoured by **ArbitralWomen** for his support of women in dispute resolution, and by the Chartered Institute of Arbitrators, which named a room at its London headquarters after him.

Marriott was married four times. He was supported in his illness by his sister, two daughters, six grandchildren and one great grandchild.

## Events

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As mentioned in Rashda Rana's President's Column, ArbitralWomen members have been busy organising, attending and speaking at a number of events.

### AW SpeedNet Events

ArbitralWomen SpeedNet is fast becoming a well-known and popular networking event for women in the dispute resolution field. It was created by member **Lisa Tomas** of Arnold & Porter (UK) LLP, who organised the first SpeedNet event in London in September 2014 (see Newsletter N° 12). In Newsletter N° 15 we reported that SpeedNet had been replicated in Paris and Warsaw and that, given its success, it would be extended to different cities around the world. Since the Summer, SpeedNet has taken place in Berlin and Hong Kong. AW members **Gabrielle Nater-Bass** and **Louise Barrington** report below. Information about forthcoming SpeedNet events will be posted on the website.

We would like to announce that Lisa will be leaving private practice to take on a senior position within the Public Affairs Division of the Canadian Foreign Service in London. She starts in her new role on 4 January 2016. ArbitralWomen extends its warm thanks to Lisa for her wonderful SpeedNet initiative and wishes her all the very best in her new role.



*Lisa Tomas, Associate, Arnold & Porter LLP*

### Berlin SpeedNet

On the occasion of the DIS Autumn Conference, an ArbitralWomen SpeedNet event was held at Humboldt Carré in Berlin on 21 September 2015. The event was jointly organized by the **DIS**, with the support of the **German Federal Ministry of Justice and Consumer Protection**, and **ArbitralWomen**.

The SpeedNet event was a great success. Over 50 women from all over Europe participated in the event. The participants belonged to a variety of professions, including lawyers, in-house counsel, academics, representatives of government agencies, representatives of arbitral institutions, consultants and auditors.







The evening commenced with a warm welcome by **Dr. Francesca Mazza**, Secretary General of the DIS, and **Gabrielle Nater-Bass**, Partner at Homburger in Zurich, Switzerland and Vice President of ArbitralWomen. After the rules of SpeedNet were explained, the participants chose a first conversation partner and lively conversations began.

Following several rounds of SpeedNet, the informal discussions continued in larger groups at the gala dinner. The highlight of the dinner was the speech by Ministerial Director **Marie Louise Graf-Schlicker**, who replaced **Dr. Stefanie Hubig**, State Secretary at the Federal Ministry of Justice and Consumer Protection.



*Annabelle Möckesch, Associate at Hanefeld Rechtsanwälte, Hamburg*

## Speech of the German Federal Ministry of Justice and Consumer Protection

The well-received welcome speech, given by **Ms. Marie Louise Graf-Schlicker** of the German Federal Ministry of Justice and Consumer Protection, is reproduced in part below. Ms. Graf-Schlicker started her speech by pointing out that, under the new leadership of **Francesca Mazza**, the German Institution of Arbitration has joined ArbitralWomen's long-standing efforts to advance women in the dispute resolution field, and is making a substantial contribution to this shared cause. She continued:

*"But even after more than 20 years, there is no sign of adequate gender diversity in arbitration. Statistics continue to prove that women are significantly less likely to be appointed as arbiters and managers at arbitral institutions than their male colleagues. In international litigation, an overwhelming number of mostly old men determine the interpretation of international law and set the tone in decision making.*

*The time has come to increase efforts to change this situation. I know that there are some remarkable women lawyers who have already entered the arena, but their numbers must be increased substantially.*

*Female lawyers should not only be given the opportunity to catch up and take on more leadership positions in public office and industry. Female lawyers should gain equal representation in high legal office, as well as visibility, acceptance and recognition in arbitration.*

*Germany is a good place to plead for such improvements. After all, Germany has been led by a female chancellor for the last 10 years. And you probably all agree that her mediation skills are well improved.*

*Although there is still a long way to go before the underrepresentation of women in top positions is a thing of the past, Germany has at least enacted legislation to substantially increase female power in the Federal administration and big companies. This law, which was initiated by the Federal Ministry of Justice and Consumer Protection and the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth, obligates Germany's biggest companies to give 30 percent of seats on their supervisory boards to women. Approximately 3,500 companies are obligated to set targets for the percentage of female staff. Moreover, the Gender Equality Acts for the Federal Public Service – the Federal Act on Appointment to Bodies and the Federal Gender Equality Act – have been amended.*

*What are the main arguments against female involvement in arbitral proceedings that we still have to rebut?*

*To start with, there's the assertion that women lawyers lack legal education and skills. This argument is simply not true. The number of qualified female lawyers in Germany has increased steadily in recent years and has never been as high as it is today.*

*Actually, female lawyers often bring clever settlement tactics to the table, and demonstrate extraordinary skills in construing the law – mixing “soft” interpretation approaches with conventional legal wisdom. They might often be even more suited to the role of arbiter than their male colleagues.*

*Second, there's the argument that the difficulties of combining family and career are a cause of female underrepresentation.*

*You might have read Anne-Marie Slaughter's much discussed essay “Why Women Still Can't Have it All”. Anne-Marie Slaughter was Hilary Clinton's Director of Policy Planning in the U.S. State Department. Slaughter left “her absolute dream job”, as she called it, after two years to be able to spend more time with her family.*

*The title creates the impression that women have to choose between their family and their job; that women simply don't strive for powerful, influential and challenging jobs and that, if necessary, women favor the needs of their family over a professional career.*

*I don't think it is that simple. The “family commitments” argument is not convincing. Slaughter, in fact, also concludes that a career and a fulfilling family life can be matched, but that it needs more than a supportive partner and a very well organized schedule. She pleads for a change in work culture.*

*Luckily, in Germany, the phrase “leaving to spend time with your family” is not a euphemism for being fired, as it seems to be in Washington D.C. But I believe the issue Anne-Marie Slaughter touched upon is not only specifically American, but one that affects all of us.*

*Work-life balance needs to be discussed progressively. More flexible working hours, the ability to work from outside the office and the need to take breaks over a long professional career need to be accepted as something completely normal and should be highly valued.*

*We will see the same number of male and female lawyers in senior positions when our female colleagues get the help they deserve. We have to improve the conditions which positively support female lawyers in combining professional and family life.*

*Employers must offer female lawyers the flexibility they need to manage their daily workload, and, last but most definitely not least: female colleagues have to be accepted in a professional environment.*

*A third argument is that most women lawyers do not have enough professional experience to participate in arbitral proceedings. The reason put forward to support this argument is that most women do not make it through the upper echelons of the legal profession from which arbiters are usually recruited.*

*This is not a coherent argument at all. Let's be frank here: female lawyers don't get their equal share of arbitration work NOT because they haven't reached the upper echelons of their profession, but because they are not part of the old boys' networks that still dominate the arbitral community. Major clients do their bit to support these old boys' networks by hiring predominantly male lawyers.*

*They don't openly privilege men, but, usually subtly, they take the male colleague as the senior and more experienced one. It has happened to me as well. I enter a room with an older male colleague and someone who doesn't know me – yet – addresses my colleague unwittingly as state secretary. It gets a little more embarrassing, though, when someone asks: “so who are you”?*

*As we work together to overcome the obstacles for female lawyers in arbitration, I am delighted to support this event.*

*Female lawyers must gain greater visibility in the selection procedure for arbiters.*

*Women must work together to ensure that underrepresentation in arbitration tribunals is no longer accepted as the status quo.*

*And one of the best ways to undermine “male power” is to build networks of women lawyers. A network doesn't only promise to be very useful, but also offers great relief. It allows us to meet others who are in the same boat. No matter whether you are at the beginning of your career or have many years of experience: the strategic role and advantages of professional networks cannot be underestimated.*

*Some steps have already been taken to improve things. For the first time ever, Germany has nominated two male and two female arbiters from different age categories for the ICSID lists.*

*We all support the initiative to increase Germany's position as an “arbitration hub”, and supporting female lawyers in the field is clearly an important part of this.”*

*Gabrielle Nater-Bass*

## Hong Kong SpeedNet

ArbitralWomen co-founder **Louise Barrington** organized a DimSum Breakfast SpeedNet in Hong Kong on 29 October 2015. The event was generously sponsored by **Stephenson Harwood** and hosted by **Giovanna Kwong** in the firm's beautiful boardroom in Admiralty. Every participant received a copy of the new publication "Women Pioneers in Dispute Resolution", a compendium of "Stories from female practitioners working in the area of International Dispute Resolution", co-sponsored by ArbitralWomen. Fuller details of this publication appear below on pages 26-27.

*Louise Barrington*



*Louise Barrington at DimSum Breakfast SpeedNet at Stephenson Harwood in Hong Kong*



*L to R : Chiann Bao of the Hong Kong International Arbitration Centre and Camilla Godman of the Chartered Institute of Arbitrators Asia*

## AW Other Events

### ArbitralWomen panel discussion "Experts and Lawyers: Building a Winning Combination"

On 23 September 2015, an ArbitralWomen event hosted by **White & Case LLP (Clare Connellan)** explored best practices for the lawyer-expert relationship with a panel discussion on "*Experts and Lawyers: Building a Winning Combination*" from four leading female quantum experts: **Toni Pincott (Nera)**, **Roula Harfouche (Accuracy)**, **Laura Hardin (Alvarez & Marsal)** and **Joanne Prior (Blackrock PM)**, chaired by the President of ArbitralWomen, **Rashda Rana SC**.

The panel addressed how and when counsel should involve the quantum expert, how to deal with gathering the data needed for the expert's assessment, preparing for testimony and choosing your expert and ended with an inspiring insight into building your career as an expert, with many parallels for ArbitralWomen lawyers working in private practice. Here are some of the highlights.

#### Expert Involvement (Roula Harfouche)

Experience suggests that it is best to involve the quantum expert as early as possible. It will allow the legal team to get a ballpark figure for damages, saving the client from bringing in claims that are not worth the costs and time involved. It will also ensure there are no inconsistencies between counsel's theory of loss and the expert's views on the likely loss amount and rationale for the loss.

A good way of explaining this to the client is to think of it as a form of insurance: the client pays a limited cost early on for the expert's work, and it is protected against finding that the quantum is not worth the action or that it does not have the right information, or that people have moved on before the expert had a chance to talk to them.

Experts value their credibility and reputation, and it is better for the client to have a strong, independent expert rather than a "puppet" whose opinion is likely to be ignored by the tribunal.

### **Data Gathering (Joanne Prior)**

Building a winning combination is about information, communication and relationships. It is really important to be clear about your role as an independent expert and to understand who the stakeholders are so that you can work together on an open and transparent basis.

You often have stakeholders with different objectives involved in the dispute, for example, some stakeholders may be sensitive to their reputation and client relationships, and others may feel strongly about a matter of principle or the bottom line figure, giving rise to a different set of objectives. Being aware of this is key when you are trying to gather information and knowledge.

### **Testifying as an Expert (Laura Hardin)**

The question of whether lawyers should prepare expert witnesses will often depend on the jurisdiction of the case. An American lawyer from a US judicial law background will want to fully prepare a witness whereas lawyers from other jurisdictions will have concerns. Either way it is important that the expert can present his or her information in a way that is both accessible and useful for a tribunal.

A direct presentation is a good opportunity for an expert to get acquainted with the Tribunal and to emphasise or further explain complicated (but important) points. This early dialogue with the tribunal allows the expert to get into a form of teaching mode.

Experts and lawyers should be wary of any redirect. The redirect can often be the most stressful part of a testimony for an expert. It is often useful for the expert's "second chair" to sit next to the lawyer and help him or her prepare the redirect.

### **Career parallels between experts and dispute lawyers, and the impact on selecting the 'right expert' (Toni Pincott)**

Selecting an expert witness is an important stage in the dispute process. This is an area where unconscious bias can creep in as much as it might in selecting an arbitrator. Traditionally the expert space has been occupied by male and First World experts, often from the larger accounting and consulting practices. Therefore as we move to a more diversity aware landscape, it is important to be aware of your own possible unconscious bias when you are thinking about potential experts for cases.

Rather than a focus on what 'an expert' looks like, it is important to focus on what the case needs – such as the expertise, language skills, fit with the tribunal, experience, availability and the need to be engaged.

For any career progression, you have to give time to making sure you are noticed and that you are recognised for the skills you have. You should not hold back from asking to be put on the cases that interest you, or opportunities to work with people you know you want to learn from. It is important to get to know those senior people who are important to your career ambitions, and how to influence them positively. Do not be afraid to get to know them but do not fall into being a sycophant. Be your own person and be clear what you stand for and how they can rely on you – to put the hours in, to give clear advice, to shoulder a load, to have passion for your work, and to be the leader you would like to be – of teams and of your own career and aspirations.

Be yourself and build on those aspects that reflect your brand – so that they manifest clearly and people understand what you stand for and can deliver – such as positivity, focus, commitment, being willing to stand by your word, work ethic, strong team player, brilliant lawyer – whatever your own combination is.

If you want to raise profile, do attend important internal events and client events. Do build relationships and develop networking skills. Support other women.

If you do want help to develop yourself more and move forward on your career path, ask your firm for a coach/mentor/ etc. If your firm does not have much to offer on this side, there are organisations like ArbitralWomen which, through networking and events, can help you build contacts, marketing skills, speaking and advocacy skills. The landscape for women in the professions is changing and we owe it to each other to be part of this, so the conversations can change.

*Clare Connellan, Associate, White & Case*

## ArbitralWomen breakfast meeting and panel discussion at IBA Vienna

It has become a wonderful tradition for ArbitralWomen to organise a get-together on the occasion of the annual IBA Conference. This year, around 70 ArbitralWomen (and men) gathered at the ArbitralWomen breakfast meeting and panel discussion on 5 October 2015 in Vienna. Hosted by **Hon-Prof. Dr Irene Welser** and her law firm **CHSH** in its lovely Bel Etage, panellists **Samaa A. Haridi (Hogan Lovells, USA)**, **Beata Gessel-Kalinowska vel Kalisz (GESSEL Attorneys at Law, Poland)** and Irene Welser (CHSH, Austria) presented and discussed the topic "What happens after an arbitration award is annulled?". **Maxi Scherer (WilmerHale, UK)** graciously stepped in and took over the role as moderator from **Sophie Lamb**, who had to leave Vienna early due to an emergency client meeting in Asia.

After a brief welcome by **Gabrielle Nater-Bass**, vice president of ArbitralWomen, and introduction of the panellists by Maxi Scherer, Samaa Haridi took the floor and first addressed the question of when and to what extent an arbitral tribunal is *functus officio* once an award as been annulled by a state court. Irene Welser then took over and discussed what actually happens after an award is annulled. Lastly, Beata Gessel-Kalinowska vel Kalisz addressed the question whether the annulled award should go back to the same arbitral tribunal or a new one.

The discussion was very lively and a number of different areas were explored with the speakers with excellent and thought-provoking contributions from the floor. The only downside was that there was not sufficient time to explore in further detail various aspects of this highly interesting topic. All participants were in agreement that this topic would be worth another half-day or even a full-day seminar.



L to R: Beata Gessel-Kalinowska vel Kalisz, Samaa A. Haridi, Irene Welser, Maxi Scherer, Gabrielle Nater-Bass, Mark Appel, Nassib Ziadé

The panel discussion was closed by **Mark E. Appel**, Senior Vice President EMEA, International Centre for Dispute Resolution® and **Nassib Ziadé**, CEO Bahrain Chamber for Dispute Resolution (BCDR-AAA), who also shared their institutional perspective on the topic.

The event was co-sponsored by the **International Centre for Dispute Resolution®**, the **Bahrain Chamber for Dispute Resolution (BCDR-AAA)**, and law firms **Homburger (Zurich, Switzerland)** and **CHSH (Vienna, Austria)**. ArbitralWomen would like to thank the very kind generosity of the sponsors and in particular also Irene Welser for making the fantastic facilities available to us for the event.

ArbitralWomen would also like to thank all those who attended. Your continuing support is turning this event into a traditional and highly anticipated event in an already packed IBA schedule!

*Gabrielle Nater-Bass, Partner, Homburger*

## CI Arb Irish Branch Centenary Event

The Irish Branch of the CI Arb was delighted to host a conference and gala dinner to celebrate the Institute's Centenary on 9 October 2015.

We were fortunate to secure generous sponsorship from **Matheson Solicitors Dublin** without which we could not have financed this event. Matheson kindly put their offices at Sir John Rogerson's Quay at our disposal to host the conference sessions.

We were also fortunate enough to secure an excellent team of speakers for the event, the theme of which was "*Advancing Dispute Avoidance and Resolution*". There was a very full programme of presentations and speakers consisting of a total of 16 papers delivered in five separate sessions, each with their own chairperson.



*Anne-Marie Blaney*

The first session was entitled “*Dispute Resolution in Business and Finance*” and was chaired by **Anne-Marie Blaney**, Chair of CI Arb Irish Branch and opened with a paper from **Ger Deering**, the Financial Services Ombudsman speaking about “*Dispute Resolution in Financial Services*” and the challenges faced in the promotion of ADR in this sector. Of particular interest in this presentation was the experience of other countries in their use of ADR in financial dispute resolution. **Nicola Dunleavy** from Matheson continued this session with a paper on “*Mediation and the Courts*” and the enforcement of mediation clauses in contracts; essentially where ADR and the Court system interact. Dunleavy outlined some of the more high profile cases in this area by way of example and how it is possible to apply to the Court to direct the parties to consider mediation and the implications of taking the litigation route. **Joe Behan**, Past President CI Arb and Mediator, continued the session with a paper on the “*Impediments and Barriers to Success in Mediation*”, particularly in the context of an adversarial legal system that is difficult to counter in the area of ADR. The remaining presentation in this session was delivered by **Mark O’Mahony**, Director of Policy and Communications for Chambers Ireland. Mark spoke about the “*Business and Commercial Mediation Pilot Scheme*” that has been undertaken in order to promote mediation in commercial disputes and the outcomes of increased awareness and confidence in using mediation and the support for the professional development of the mediation community and ultimately reducing the burden on the Courts as a result.

The second morning session examining “*Construction Dispute Avoidance and Resolution*” was then chaired by **Toal Ó’Muiré**, past Chairman of CI Arb Irish Branch. This session included presentations from experienced ADR practitioners working in the field: Professor **Nael G. Bunni**, Past President and Past Chairman of the CI Arb Irish Branch and Chartered Engineer; **Siobhan Fahy** Chartered Engineer and **James O’Donoghue** Architect. Their presentations on “*What has history taught us in ADR? Avoidance of Dispute*”; “*Construction dispute avoidance: new developments in CI Arb, ICC and FIDIC dispute Board Rules*” and “*Conciliation – the emergence and benefits of the MedRec technique*” – all gave valuable ‘on the ground’ insights and experiences into how ADR is being practised and how it can be improved upon and indeed the benefits of trying to avoid disputes (one of the principal themes of the day) in the first instance.

A welcome break for coffee then followed and then the final morning session was chaired by **Terence O’Keefe**, Past Chairperson of CI Arb Irish Branch and encompassed the theme of “*Investor-State Dispute Resolution*” where ADR can be as relevant for an entity as large as a State as it can be for neighbours arguing over a boundary wall! Professor **Datuk Sundra Rajoo** from The Kuala Lumpur Regional Centre for Arbitration (KLRCA) and Deputy President of the CI Arb delivered the opening paper in this session which examined the “*Trends in Investor-State dispute settlement in the Asia-Pacific – Reassessing the role of regional Arbitration Institutions*”. In particular Prof. Rajoo looked at the case of Philip Morris against

Australia and the negotiation of the TPPA and BITS. The Transatlantic Trade and Investment Partnership was also touched on as was the role of Regional Institutions and the case of KLRCA. **Norah Gallagher** from the Centre for Commercial Law Studies in Queen Mary University in London then presented a paper on “*China and Investment Treaty Arbitration*”. These papers outlined the reach and value of ADR in both the context of these Eastern States that would be of a very different nature and traditions to those in the West. These were followed by **Wolf Von Kumberg**, ArbDB London who examined “*Enabling Early Settlement in Investor-State Arbitration through Mediation*” and how commonly used ADR principals used by much smaller parties can be used by State-Investor disputes and **James Bridgeman** BL (Ireland & UK), Trustee and FCI Arb who presented on “*Investor State Dispute Settlement in the EU USA Trade Negotiations*” – again further aspects and perspective in this area.

Lunch then followed this very full programme and then the first of the two afternoon sessions entitled “*Corporate Dispute Resolution*” was chaired by **Isolde Goggin**, Chairperson of the Competition and Consumer Protection Commission. The first paper presented in this session was “*Corporate Dispute Resolution*” and was given by **Gearoid Carey** from Matheson Solicitors. This was a highly practical look at Corporate ADR with practical examples and lessons learned therefrom. The session continued with presentations from **Gordon Blanke** from Baker & McKenzie Habib Al Mulla and **Brian Hutchinson**, Senior Lecturer, Sutherland School of Law UCD.

Their presentations were entitled “*Arbitration Commitments in EU Merger Control*” and “*The Future of Cross Border Commercial Dispute Resolution*” respectively and again looked at further aspects of ADR within these contexts.

The final session was chaired by **Gerard Monaghan** who is the current Vice Chair of the CI Arb Irish branch and was entitled “*Energy Dispute Resolution*”. The three papers presented in this final section were “*Energy Dispute Resolution* given by **John Gaffney**, Al Tamimi Law Office in Abu Dabi; “*Orders of Emergency Arbitrators: problems concerned with enforcement*” presented by **Eugene Blinov**, Astapov Lawyers International Law Group and finally **Joseph Tirado** from Winston & Strawn London LLP spoke about the “*Energy Charter Treaty*”. The energy sector presents particular types of disputes and solutions under ADR to which these papers gave excellent explanation and example.

Overall the standard of presentations was excellent and all were very well received by the attendees, particularly the wide range of topics covered and calibre of the speakers both from Ireland and overseas.

This very full and wide ranging conference was brought to a close by **Charles Brown** President of CI Arb and **Anne-Marie Blaney** Chair of CI Arb Irish Branch.

That evening we held a gala dinner in the Marker Hotel which was attended by approximately 100 members and their guests. We were delighted to have the President of the Institute Charles Brown at the dinner and he gave an excellent after dinner speech. **Mr Justice Brian McGovern** also addressed the guests.

The evening was a great success and a wonderful way in which to round off the conference while also paying tribute to 100 years of work by the Institute in the area of alternative dispute resolution.

*Anne-Marie Blaney, Chair, Chartered Institute of Arbitrators-Irish Branch, and Terence O'Keefe, past chair of CI Arb Irish Branch*

### First AW-ICC joint event - Breakfast and panel discussion at the 13<sup>th</sup> ICC Miami Conference - Unconscious Bias in International Arbitration: is the subject taboo?

ArbitralWomen held its first ICC-AW joint event at the 13<sup>th</sup> ICC Miami Conference, which took place from 1 to 3 November 2015. The conference was a huge success with 572 participants from 41 countries. The AW Breakfast and Panel Discussion also registered record numbers with over a hundred female and male participants.

In her introductory words for the panel discussion, **Katherine Gonzalez Arrocha**, Director for the Americas, ICC International Court of Arbitration, recognised that she has three jobs, two of which are full time, the first being a mother, the second being her professional position with the ICC and the third being that of an arbitrator when the first two permit. **Gonzalez Arrocha** stressed the need for children to have good working mother examples.



L to R: Katherine Gonzalez Arrocha, Ana Carolina Weber, Diana Droulers, Mirèze Philippe, Maria Vicien Milburn, Fabiola Medina Garnes



L to R: Fabiola Medina Garnes, Diana Droulers, Maria Vicien Milburn, Mirèze Philippe, Ana Carolina Weber

According to **Mirèze Philippe**, Special Counsel at the ICC International Court of Arbitration, co-founder of AW and organiser of the event, unconscious bias is a multi-faceted topical issue that practitioners have dared to discuss publicly only in recent years. She excluded from the debate the lack of impartiality of arbitrators and bias which may arise during the conduct of a procedure, the deliberations or the drafting of an award, while referring to an article by **Edna Sussman** on arbitrators' decision making (*Arbitrator Decision-Making: Unconscious Psychological Influences and What You Can Do About Them*, 24 AM. REV. INT'L ARB. 487 (2013)). Unconscious bias is intrinsic to human beings Philippe said, and we can do nothing to stop it, but acknowledging our perceptions is a first step towards possible change.

The panel's debate focused on different facets of unconscious bias relating to diversity, gender and age. Citing two articles published by **Lucy Greenwood** and **Mark Baker** (*Getting a better Balance on International Arbitration Tribunals*, Arbitration International, 2012, vol. 28, and *Is the Balance getting Better, an Update on the Issue of Gender Diversity in International Arbitration*, Arbitration International, 2015, vol. 31), **Maria Vicien Milburn**, independent arbitrator, pointed to a shift in the international arbitration community's attitude to lack of gender diversity from accepting the *status quo* to becoming willing to address the issue. According to Vicien Milburn we are in the midst of a shift in perspectives, but she highlighted that the lack of diversity is due to a multitude of factors: the pipeline leak, an unequal division of responsibility between men and women for child raising and part-time work.

In her presentation, **Fabiola Medina Garnes**, Partner, Medina Garrigo Abogados, referred to **Benjamin Davis'** work (*The Color Line in International Commercial Arbitration: An American perspective*, American Review of International Arbitration, 2003, vol. 14) and underlined the existing obstacles relating to the colour line, communities, clubs, countries, ethnics, age and cultural barriers. She added that bias can undermine respect for other cultures and that taking into account cultural issues in international arbitration is indispensable; for instance, losing face in certain cultures is worse than losing a case.

Pointing to the different ways society educates boys and girls, **Diana Droulers**, President, International Federation of Commercial Arbitration Institutions (IFCAI), also highlighted contrasting media perceptions of ambitious men and women such as **Hilary Clinton** and **Joe Biden**, citing a study conducted by Harvard Business School. Droulers also referred to a 2011 McKinsey report detailing how men were promoted on their potential whereas women were promoted on their past accomplishments, and applied this to the gender imbalance in tribunal appointments.

Unconscious bias in the context of younger generations was discussed by **Ana Carolina Weber**, Junior Partner from Carvalhosa e Eizirik, Brazil, as well as the need for doors to remain open to younger generations who bring to the arbitration environment different perspectives.



*A packed room of over 100 women and men*

It was acknowledged during the discussion that a one-size-fits-all approach was inappropriate to overcoming gender bias, and that concerted efforts needed to be made by firms to solve the problem of endless working hours to achieve a work-life balance. At a macro-economic developmental level, **Eliseo Castineira** pointed out that societies in which gender equality is infringed performed very poorly.

**Jean-Marie Vuillemin** commented that this kind of meeting should be mandatory for men. He stated that Froriep is the only law firm in Switzerland which has had a woman managing partner for a long time, and that women have broader perspectives as they see the world in technicolour and not in black and white only like men.



In **Klaus Reichert's** opinion, the question is about the dignity intrinsic to a person and any form of discrimination is entirely hostile to that concept. If you have a firm belief in the dignity of humans he said, all rules, guidelines and initiatives have a much better chance of making this work.

Two common misconceptions about the ICC in relation to appointing more women and revealing the number of women arbitrators were addressed by Philippe. First, the onus of appointing women arbitrators is not only on institutions (which appoint arbitrators in less than 25% of cases), but rather on all players, especially counsel and parties. Second, statistics were already published in 2013 and 2015 (Mirèze Philippe, *When did the Doors to Dispute Resolution open for Women*, TDM vol. 12, issue 4, July 2015) and will continue to be published.

**Philippe** concluded by stating that the fact that these issues are openly discussed and are no longer taboo is a victory, and praised the initiatives which have drawn awareness to diversity issues. She stressed that diversity is an economic reality that practitioners should take into account and that it adds value as everyone contributes something different. The participants were enthusiastic about the open discussion and requested that this panel discussion be replicated in other *fora* to continue raising awareness in the hope of succeeding to make the unconscious conscious and modify our process of thinking.

The next panels on this topic will be held in 2016 Miami (January), Dubai (April), Vienna (May), Hong Kong (June), and New York (September). Further details will be provided on our website.

The event was kindly sponsored by ArbitralWomen members' law firms in Brazil: **Carvalhosa e Eizirik Advogados** and **Motta, Fernandes Rocha Advogados**.

*Mirèze Philippe, Special Counsel, ICC International Court of Arbitration,  
ArbitralWomen Co-Founder, Membership Director*

## FTI Consulting Annual Cocktail Event in Paris

The evening of 5 November 2015 saw over a hundred guests gather at the annual cocktail event hosted by **FTI Consulting's International Arbitration practice** in Paris, among which a significant number of ArbitralWomen, including AW Treasurer **Juliette Fortin** hosting the event.

Arbitration and litigation practitioners from the largest players in the field took the opportunity to interact with FTI professionals as well as fellow legal professionals in a relaxed and convivial setting over drinks and delicious snacks at the grand Salon Pompadour of Le Meurice.

**James Nicholson**, Senior Managing Director and head of the Paris International Arbitration practice at FTI Consulting briefly addressed the gathering and introduced the guest speaker for the evening, **Alexis Moore**, President of the ICC International Court of Arbitration. Alexis shared with the invitees his views on the strides made in the field of international arbitration in terms of its increasing popularity, and the ICC's role within it. He stressed the importance of globalisation and diversity within the arbitration community, such as having more female representation.

Held on the eve of the Young Members Group Centenary Celebration Conference organised by the Chartered Institute of Arbitrators (CIArb), the event offered yet another occasion for arbitration professionals to interact and engage in fruitful professional exchanges outside of their usual arenas of boardrooms and hearing centres.

FTI Consulting's International Arbitration practice specialises in the quantification of economic damages, business valuation and expert testimony, providing end-to-end valuation and litigation support. The firm was named the Arbitration Experts Firm of the Year 2015 by the Who's Who Legal Awards.

*Shruti Bakshi, FTI Consulting*

## Young Members Group Centenary Celebration Conference by the CIArb

On 6 November in Paris, the who's who of international arbitration gathered to celebrate the centenary of the Chartered Institute of Arbitrators (CIArb) at the **Young Members Group Centenary Celebration Conference**, sponsored by **FTI Consulting, Jones Day, White & Case** and the **ICC International Court of Arbitration** which hosted the conference. A welcome reception was hosted by White & Case on the evening before and a closing reception was hosted by Jones Day at their respective offices in central Paris.

With attendees coming from as far as Canada, the USA, Singapore and Hong Kong, the conference truly embodied the international spirit of arbitration. The day-long conference commenced with a keynote address on the topic *"How does arbitration need to change to stay relevant in the next 100 years"* by AW member **Wendy Miles QC**, a Partner and Head of International Arbitration at Boies, Schiller & Flexner, a CIArb Fellow and Chair of the CIArb Board of Trustees.

Miles set a historical and reflective backdrop for the conference, reminding all practitioners that the roots of modern-day arbitration and dispute resolution lay in the desire of world leaders to broker peace between nation-states in the dismal aftermath of World War I. Harking back to the tense state of the world at the turn of the previous century, Wendy invoked the original essence and purpose of arbitration by making reference to the 'merchants of peace' that founded the ICC in 1919 and to the Hague Convention of 1899 that recognised arbitration as

the most 'effective' and 'equitable' means of settling legal disputes 'where diplomacy has failed'. She closed her address by discussing some of the current challenges facing the world in the shape of climate change and state conflict and provided some inspirational advice to young arbitration practitioners: to be aware of world events, make a contribution and to 'stay the distance'.

The conference then proceeded in the form of panel discussions and workshops as is the general format for this annual event. The first panel discussion was on the topic of *"The future of investment treaty arbitration"*, moderated by **Ronan O'Reilly** of White & Case. The panel featured **Noah Rubins** (Freshfields), **Stephen Anway** (Squire Patton Boggs), ArbitralWomen Board Member **Dr. Ileana Smeureanu** (Jones Day) and **Rukia Baruti** (Africa International Legal Awareness). Stephen shared his views on the topic of the establishment of an appellant mechanism in investment treaty arbitration – how achievable it would be and in what form. Rukia shared her experience of the South African Development Community (SADC) Model BIT in the context of the Fair and Equitable Treatment (FET) standard, while Ileana discussed the issue of transparency in investor-state arbitrations. Finally, Rubins gave a compelling account of the drastic increase in the costs of arbitration in recent years, raising pertinent questions regarding the underlying causes and where solutions might lie.

The lively panel discussion ended just in time for lunch which was organised at the Palais de Tokyo, a short walk from the ICC, along tree-lined avenues that offered spectacular views of the Eiffel Tower.

After lunch, two back-to-back sets of workshops were held where the attendees could choose between two topics at each set. For the first workshop session, participants could choose to attend a workshop on the topic *"An introduction to sports arbitration: what is it? Is it going to grow? How can you get into it?"*. The workshop revolved around the question of whether there is such a thing as sports law and featured **Arran Dowling-Hussey** (The Law Library) as moderator and **Prof. Guido Carducci**, **Louise Reilly** (The Law Library) and **Nicholas Stewart QC** (Ely Place Chambers) as panel members. Alternatively, participants could attend a workshop on the topic *"Working with in-house counsel: how do in-house counsel and external counsel work best together"*. This workshop highlighted the fundamental importance of 'listening' to client needs and featured **Artem Doudko** (White & Case) as moderator and **Sharon Lee-Thibault** (Vinci Construction) and **Gonzague de Bouville** (GDF Suez) as panel members.

For the second workshop session, participants could choose between a workshop on the topic *"A practical guide to cross-examination"* and one on the topic *"Third party funding in arbitration – risks and benefits"*. The former workshop explored the expertise required of both cross-examiners and witnesses and featured **Diana Bowman** and **Ronan O'Reilly** of White & Case as moderators and **Andrew de Lotbiniere Mc Dougall** (White & Case) and **Ben Valentin** (Fountain Court Chambers) as panel members. The latter workshop shed light on the relatively new field of third-party funding and where potential conflicts of interest might lie.

It featured **James Nicholson** (FTI Consulting) as moderator and **Ziva Filipic** (ICC), **Yasmin Mohammad** (Vanin Capital) and **Nicole Dolenz** (Jones Day) as panel members.

A series of mini-debates followed the workshops, engaging participants in open and lively discussions on three current topics of interest in arbitration. **Annemarie Grosshans** (International lawyer and arbitrator) served as moderator. The first mini-debate was on the motion: “*the arbitral secretary has become the fourth arbitrator*”. **Sami Tannous** (Freshfields) spoke for the motion while **Charles Nairac** (White & Case) pointed out the case against. Following a few comments from the audience and closing speeches by the two speakers, the house voted on the motion, with the majority rejecting it. The second mini-debate considered the topic ‘arbitration is best’ with **Rahul Donde** (Lévy Kaufmann-Kohler) speaking for and **Marie Berard** (Clifford Chance) speaking against. Perhaps Wendy’s reference to the ideals underpinning the arbitration process earlier in the morning was well remembered by the audience that surprisingly voted against the motion, despite themselves being arbitration practitioners! The final mini-debate raised the motion: ‘does the arbitral award have a future?’. **Roland Ziade** (Linklaters) spoke for the motion while **Paul Tan** (Rajah & Tann) took a position against. An overwhelming majority voted for the motion, vindicating their strong allegiance to their profession should it have come under any doubt at the voting over the previous motion!

The conference then drew to a close with an address by **Alexis Moore**, President of the ICC International Court of Arbitration and a vote of thanks by **Charles Brown**, President of the CI Arb. Mourre touched on the various challenges currently facing the arbitration community including certain topics that had been repeatedly raised in comments during the course of the conference such as the debate surrounding the TTIP agreement, and the issue of transparency in arbitration. Charles Brown wrapped up the evening with a brief summary of the days’ events and discussions. The participants were invited to wind-down the Friday evening with cocktails at the offices of Jones Day where they engaged in some more informal exchanges in a relaxed atmosphere.

All in all, the conference was enjoyable, interesting and thought-provoking. The success of the conference lay not only in the fact that it caught the current pulse of the arbitration community but also in that it inspired attendees to reflect on the challenges facing modern-day arbitration while encouraging them to bear firmly in mind, the true essence, purpose and spirit of arbitration as envisaged by its founding fathers around a hundred years ago.

*Shruti Bakshi, FTI Consulting*



*Shruti Bakshi, FTI Consulting*

## Commercial Dispute Resolution (CDR) Autumn Arbitration Symposium - London

The CDR’s recent **Autumn Arbitration Symposium held on 12 November 2015**, at the Sofitel London St James, provided a great opportunity for a number of Arbitral Women to meet, present and network. The conference was organised with a comprehensive approach to cover hot topics in international arbitration, and delivered in an engaging style.

The keynote address was from **Hilary Heilbron QC of Brick Court**, and focused on some of the issues arising from arbitrations involving multiple parties; chiefly, how to cater for complex issues in arbitrations where there are, say, more than two counterparties. In a clear and precise exposition of the relevant law, rules and procedure, Hilary noted that the inability of arbitral tribunals to bring in third parties could lead to inefficiency; issues of joinder in arbitration were thoroughly canvassed, with Hilary noting that “rules relating to [the] extended jurisdiction [of tribunals] are to be welcomed”, although, as ever “consent should remain the bedrock of arbitration”.

**Megha Joshi of the Lagos Court of Arbitration (LCA)** spoke on the first panel of the day, on regional trends in arbitration, dedicated to assessing the latest regional trends across what is an increasingly competitive market for international disputes. Each member of the panel gave a short exposition of trends in their given region of the globe, with useful insights. As the only lady on the panel, Megha provided the African perspective.

She described the LCA's international outlook and made it clear that the LCA had "taken ownership of the development of arbitration in Nigeria", and stressed the need for new regional arbitral bodies to become financially self-sustaining. Other panellists provided the European, Asian, Russian and Latin American perspectives. Delegates were engaged in a lively exchange of views and questions.

**The sixth panel of the conference was a totally female panel and focused on** career development for arbitrators, in which practitioners, at various stages of practice, debated their preferred beliefs as to how to help build up the necessary institutional, legal and arbitral experience, as well as the skills, to become an arbitrator. **Natalia Petrik of the Swedish Chamber of Commerce**, spoke about her experiences of the first appointments of young arbitrators, and gave a series of detailed and immensely practical tips. There were passionate, if divergent views on matters like personal referrals; **3VB's Sophie Nappert**, said, for example, there was nothing wrong with law firms using word of mouth in selecting an arbitrator, while **Emilia Vidak Gojkovic of Baker & McKenzie** claimed that the processes for choosing arbitrators "were still in the Dark Ages" where informal approaches prevailed. Sophie argued that referrals usually flowed from candidates being seen to have earned the trust of parties as an arbitrator, although as one counter-argument put it, an arbitrator might equally be chosen from a database of suitably qualified and suitably diverse candidates; to which Sophie added "that the use of word of mouth referrals, as a recruitment method for arbitrators, was not going away". On the client side, Sophie's comments on arbitrators being attuned to what users want was echoed by **Helen Dodds of Standard Chartered Bank**, who said that flexibility from arbitrators was very attractive to clients, and stressed that, on the subject of gender diversity, arbitrators as a body could do more to catch up with other professional communities.

ArbitralWoman was the official media partner for the event, and members from the network were able to meet, exchange stories and interact at the numerous hospitality breaks during the day.

Excerpts from this article have been taken from <http://www.cdr-news.com/categories/arbitration-and-adr/featured/5975-an-autumn-harvest-cdr-arbitration-symposium>. Please check the link for the full and detailed write up about the conference, profiles of the speakers and sponsors.

*Megha Joshi, Lagos Court of Arbitration*

*Natasha Mellersh, Commercial Dispute Resolution*



*Some of the Arbitral Women members at the conference pose for a group picture. L to R: Maria Beatriz Burghetto, Claire Stockford, Hilary Heilbron QC, Megha Joshi, Natasha Mellersh, Gillian Carmichael Lemaire*

## ArbitralWomen Evening Debate in Dubai



Freshfields Bruckhaus Deringer partnered with Vannin Capital PCC Limited hosted an ArbitralWomen evening debate in Dubai on 17 November 2015. The event began with a lively discussion, introduced by **Rashda Rana SC**, President of ArbitralWomen and moderated by **Yasmin Mohammad**, Senior Counsel at Vannin Capital. Speakers **Dr Habib Al Mulla** of Baker & McKenzie Habib Al Mulla (Dubai) and **Lucy Reed** of Freshfields (Singapore), were assigned a particular proposition to support in their argument. For Lucy Reed it was “*women make better arbitrators and counsel than men*” and for Dr Al Mulla it was “*women are as good as men as arbitrators and counsel*”. They presented their side of the arguments based on two questions:

- (i) in what ways are female counsel more effective as advocates before arbitral tribunals than men; and
- (ii) in what ways are female arbitrators more effective arbitrators in a tribunal than men?



L to R: Lucy Reed, Dr Habib Al Mulla and

Both speakers hastened to add that the views were not their own, but presented novel arguments for each proposition that they were asked to advocate. Lucy Reed cited reasons such as the interconnectivity (or “zigzagging”) of women’s brains which enables the ‘multi-tasking’ that women are famous for and which in turn makes them more effective arbitrators and counsel. Dr Al Mulla took a different approach, dealing with various situations which demonstrated that women were as good as men but in reviewing facts and figures he lamented that there was also evidence that indicated that people still thought that men may be more effective. He said, for instance, that only 11% of the arbitrators appointed by leading institutions are women which indicated that people perceived men to be better.



A full house for the Dubai evening debate.

The event was well attended by both men and women, which made for an interesting question session after the debate. The audience asked questions ranging from how women should juggle family life with a career to whether the question of women not promoting other women in the workplace was a real issue. It emerged that the Dubai International Arbitration Chamber achieved a 30% rate of female arbitrators this year, a promising development which ArbitralWomen only hopes will increase in years to come. Following some controversial questions and an energetic discussion, the evening finished off with drinks and canapés.

*Antonia Birt and Ellen Miller Rankin, Freshfields*

## Leading Women in ADR and Promotions

### Information for members: Future announcements of ArbitralWomen on the move

We invite members to inform us of any moves or promotions that they would like mentioned in the Newsletter. As we are happily seeing an increasing number of promotions and do not wish to miss anyone out, in future Newsletters we will make a short and simple announcement of the move or promotion rather than the fuller features included in recent Newsletters. Please also let us have a photo to go with any announcement you would like published.

### Things are changing in Mexico: Cecilia Flores Rueda heads Basham, Ringe & Correa's arbitration and dispute resolution practice



Cecilia Flores Rueda

**Basham, Ringe & Correa**, a long-standing Mexican law firm, has announced the hiring of a new partner, **Cecilia Flores Rueda**, as from 4 November 2015, as head of the Arbitration and Dispute Resolution Practice.

Cecilia is the firm's first female partner in its 104 years of existence and her new position is certain to open the gateway for other female lawyers. This confirms that things are changing for the better in Mexico: women are starting to be recognised for their legal skills and talents, be appointed to leadership positions in major firms and achieve higher visibility in the arbitration field.

Cecilia says: *"Now I know how the first woman who voted must have felt: I feel my appointment is also a big step and a huge responsibility."*

*Maria Beatriz Burghetto, Counsel, Hughes Hubbard & Reed LLP*

### White & Case promotes Elizabeth Oger-Gross and Clare Conellan to partnership

On 16 October 2015, White & Case announced 31 new partners across the firm who will commence their roles from 1 January 2016, including **Elizabeth Oger-Gross** and **Clare Conellan** from the international arbitration practice in Paris and London. **Sebastian Perry's** full report in the **Global Arbitration Review** can be found here: <http://globalarbitrationreview.com/news/article/34237/paris-london-promotions-white-case/>. He has kindly given us permission to summarise his report.

As reported in GAR, **Elizabeth Oger-Gross** joined **White & Case** in 2007. She is admitted to practice in New York and Paris, and has acted in arbitrations governed by the rules of the ICC, AAA, ICDR, UNCITRAL and the Swiss Chamber of Commerce.

**Clare Conellan** joined **White & Case** in 2008. As reported in GAR, Conellan has acted in numerous complex construction disputes and is a CEDR-accredited mediator.

Having completed studies at Kings College London, Pantheon-Sorbonne University, and Queen Mary University of London, Conellan has acted in arbitrations under the rules of the ICC, LCIA, LMAA, UNCITRAL and the Cairo Regional Centre for International Commercial Arbitration.



Elizabeth Oger-Gross, Clare Conellan

**White & Case** chairman, **Hugh Verrier**, is reported to have extended his congratulations saying, *"I offer congratulations and a warm welcome to our new class of partners – a group of diverse, engaged and ambitious lawyers who are clearly prepared for the exciting road ahead. I know their collective expertise will serve both us and our clients well."*

### Three Crowns promotes Lucy Martinez to Counsel

In October, **Lucy Martinez**, a member of the New York and Queensland bars, was promoted to Counsel in the London office of **Three Crowns**. This promotion follows only months after Lucy joined the firm as a Senior Associate in January 2015.

Lucy is experienced in the oil and gas, energy and telecommunications sectors and has advised and represented both corporate clients and States in high-value investment treaty and commercial disputes

administered by many of the world's leading arbitral institutions. She has published extensively on various issues relating to international arbitration, and was an Executive Board Member of ICDR Young & International from 2010-2013.



Lucy Martinez

She is honoured to serve as the first female Counsel at Three Crowns. Speaking to ArbitralWomen, Lucy said "It's an exciting time to be at Three Crowns, as we build a team committed to clients, causes and camaraderie." Three Crowns' commitment to recognising excellent talent is also reflected in the firm's highest ranks: in early 2015 the firm welcomed ArbitralWomen member **Carmen Martinez Lopez** as its first female partner.

*Kiran N. Gore, Associate, Three Crowns*

### Nomination of ArbitralWomen members to the IBA's Arbitration Committee

The IBA's (International Bar Association) arbitration committee officer line up for 2016 was revealed on 7 October 2015 in Vienna. **Anne-Veronique Schlaepfer** of White & Case (Geneva), and a member of ArbitralWomen, will serve alongside **David Arias** of Arias SLP (Madrid) as co-chair.



Anne-Veronique Schlaepfer

ArbitralWomen member, **Wendy Miles QC** of Boies Schiller & Flexner (London), was promoted to vice-chair.



Wendy Miles QC

Another member, **Samaa Haridi** of Hogan Lovells (New York), was appointed to the committee and will take over as chair of the investment arbitration subcommittee.



Samaa Haridi

Based on the original article "**IBA arbitration committee unveils 2016 line-up**" by Sebastian Perry for the **Global Arbitration Review**, <http://globalarbitrationreview.com/news/article/34212/iba-arbitration-committee-unveils-2016-line-up/>.

Sebastian Perry has kindly given us permission to summarize his article.

*Rachael O'Grady, Senior Associate, Mayer Brown*

### The Association for Arbitration ("Association Française d'Arbitrage" ("AFA")) nominates three ArbitralWomen members

For its 40<sup>th</sup> anniversary, the **AFA** aims to re-energise through several initiatives, one of which is acknowledging the place of women in arbitration.

On 28 September 2015, **Laurence Kiffer**, partner at Teynier Pic, and currently a candidate in the forthcoming elections of the Paris Bar Council (*Conseil de l'Ordre*), **Marie Danis**, partner at August & Debouzy and **Caroline Duclercq**, counsel at Altana, were nominated respectively as Vice-President and members of the AFA's executive board. These nominations are an acknowledgement of the greater role that women play in arbitration, and in the legal world in general.



L to R: Laurence Kiffer, Marie Danis, Caroline Duclercq

Indeed, it is estimated that over 70% of the lawyers entering the profession in France today are women (see *Report of the "Committee for Professional Equality and Social Issues" of the Paris UJA (Union for Young Lawyers) presented and debated at the Permanent Commission of 3 May 2012*). However, at partner level, the figures are much less impressive. The recent nomination of Laurence Kiffer, Marie Danis and Caroline Duclercq to the AFA board is therefore a challenge to the underrepresentation of women in the higher spheres and a recognition of the fact that women can and do succeed in arbitration.

What these three women have in common is their sense of professional commitment and initiative. While she was co-president of the **Paris Bar Association** sub-committee on "*International arbitration and the French market place*" **Laurence Kiffer** initiated the report which led to the Association's decision to allow witness preparation by lawyers. **Marie Danis** has taken part in the **Planning Commission and Economic Intelligence Group of the French National Council of Local Bar Associations** and **Caroline Duclercq** is a founding partner of **Wake up (with) arbitration**, which organises breakfasts dedicated to arbitration. As well as teaching programmes and taking part in think tanks related to arbitration, all three also take an active stance in the association **Paris, the Home of International Arbitration**, which promotes Paris as a place for international arbitration.

It is therefore no surprise that Laurence Kiffer, Marie Danis and Caroline Duclercq should be enthusiastic about AFA's vast agenda for the future.

The goal of the new board is to strengthen the institution's historical assets and to allow it to adapt to recent evolutions through various initiatives.

The AFA is one of the few French arbitration institutions which benefit not only from longstanding experience but also from true international reach and exposure. In particular, it has very strong connections with numerous North African countries. The moderate costs of the institution also enable it to reach different markets such as small and medium-size companies, a characteristic that the AFA seeks to preserve and use as an important competitive asset in today's globalised economy.

According to the AFA's new board members, the aim is to continue to increase the institution's visibility, particularly at international level, through developing new partnerships, encouraging further cross-border exchanges and continuing to organise training sessions and workshops.

The institution's reputation for modernity (it is, for example, the first institution to have incorporated an emergency procedure in its arbitration rules) and flexibility (the AFA rules are frequently updated in light of developments in the practice of arbitration) will also be capitalised upon. More specifically, the institution wishes to create working groups composed of a representative number of not only women practitioners but also young lawyers, since, they too, represent a growing part of today's legal working force. The task of such working groups will be, *inter alia*, to reflect upon potentially needed reforms of the AFA arbitration rules.

From a general perspective, the nomination of Laurence Kiffer, Marie Danis and Caroline Duclercq to the AFA's executive board is part of the new dynamic that the institution wishes to install for the next 40 years.

*Marie Danis, partner, and Paola de Vienne, associate, August & Debouzy*

### GQUAL global campaign Launch: Lena Wong reports

On 17 September 2015, Gender Equality (GQUAL) launched its global campaign for gender parity in international courts, tribunals, and monitoring bodies with a well-attended event at the United Nations in New York. A distinguished panel of ambassadors, academics, and international law practitioners addressed the issue of underrepresentation of women in international adjudicative bodies and discussed why gender parity is an issue, more than ever, ripe for action.



*Viviana Krsticevic, Executive Director of CEJIL speaks at the GQUAL launch*

It is undisputed that women are underrepresented in international and regional adjudicatory bodies. According to **Vivian Krsticevic**, Executive Director for CEJIL, women make up only 17% of the major international courts and tribunals.



For example, three of the 15 judges sitting on the International Court of Justice are women, 14 of the 45 judges sitting on the European Court of Human Rights are women, and only two of the 11 judges on the African Court of Human and People's Rights are women. Notably, there are no female judges currently sitting on the Inter-American Court of Human Rights.

International courts and monitoring bodies play an important role in promoting justice and international cooperation. They render decisions on important global issues, such as peace and security, human rights, and cross-border disputes. Ultimately, they are symbols of international justice. However, as Professor **Elizabeth Abi-Mershed** noted, the leadership of many human rights institutions and international courts, whose mandates are to promote equality and non-discrimination, are often male-dominated.



*GQUAL launch participants ask international tribunals and monitoring bodies to #ChangeThePicture*

Thus, by engaging representatives at both national and international levels, the GQUAL campaign aims to increase awareness and transparency of judicial election and nomination processes in international courts. During the event, Ambassadors to the U.N. from Panama, Argentina, Costa Rica, Sweden, and Norway called for greater participation of women in leadership and governance roles. Ambassador **Geir O. Pedersen** of Norway emphasized that governments, international bodies, and civil societies must cooperate to achieve gender parity. On a positive note, Swedish Ambassador **Olof Skoog** noted that Sweden's new female Prime Minister has already pledged to pursue "feminist" policies during her tenure. Practitioners and academics from the fields of international law, human rights, and humanitarian law shared their reasons for endorsing the GQUAL campaign. **Gladys Acosta Vargas**, a member of the Committee on the Elimination of All Forms of Discrimination Against Women and a strategic advisor to GQUAL, stated it is time to "break the glass ceiling" that has historically prevented women from achieving positions

of power. As enshrined in Article 8 of the Convention on the Elimination of All Forms of Discrimination Against Women, women have the right to represent their own governments. Under that provision, "State Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations." As Professor **Claudia Martin** aptly put it, supporting women is not only a moral commitment but also a legal obligation.

A number of speakers at the event argued that promoting gender parity in international adjudicative bodies is, fundamentally, a matter of developing more equitable laws and jurisprudence. They reasoned that greater diversity within international courts would enrich legal reasoning and analysis and ultimately lead to greater justice. Professor **Cecilia Bailliet** called for the increased participation of women in "hard" areas of law, such as investment, commercial, and trade law.



*Ambassador María Cristina Perceval for Argentina's permanent mission to the UN and campaign launch supporter stands with event participants*

At the closing of the event, the five ambassadors and speakers joined 680 other signatories in endorsing GQUAL's [Declaration](#). Individuals are invited to take action and to sign the GQUAL [Petition](#).



*Lena Wong, Assistant Law Clerk, New York State Supreme Court*

### Women pioneers in dispute resolution

As mentioned above in Louise Barrington’s report on the Hong Kong SpeedNet event, “Women Pioneers in Dispute Resolution” is a book showcasing the stories of a number of women in the field.

The book is part of the project entitled “Gender Oriented implementation of the ADR instruments in the Western Balkan”, which is financed by the **German Federal Ministry for Economic Cooperation and Development** and implemented by **Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, Open Regional Fund for South East Europe – Legal Reform (ORF LR)**. The project’s goal is to support the promotion of alternative dispute settlement mechanisms (Arbitration and Mediation) in the Western Balkans, especially by encouraging the participation of female practitioners.



### Women Pioneers in Dispute Resolution



*A glance at a few pages of the 80 page book featuring women pioneers in dispute resolution*

Sharing successes and documenting them is a way to promote women’s contribution to dispute resolution. Sometimes young people need inspiration in order to choose their career path and such inspiration may be found in real success stories. GIZ ORF-LR and ArbitralWomen therefore collaborated to gather different stories from all parts of the globe in this publication.

The book is a small piece of the overall puzzle about how to promote women in dispute resolution. It reports on prejudices, societal structures, and missing networks, all of which women face every day. By analysing individual careers, opportunities and reporting on challenges from the daily lives of women working in arbitration, the obstacles become apparent.

It is a collection of stories by women for everyone, resulting in a colourful mosaic showing that equality still has not been fully reached, but also showing that women can do it and have done it - very often together with men! Facing challenges, prejudices, judgments, closed or missing networks, cultural barriers etc., those women succeed by working hard, desiring more, believing in people and themselves, never giving up, having passion and by daring.

Thank you to all who contributed, and shared their stories with us! Time has not permitted us to approach other reputed women pioneers, and some who were approached could not contribute due to their agendas.



*Adela Llatja, Open Regional Fund  
South East Europe Legal Reform*

## ARBITRALWOMEN KLUWER ARBITRATION BLOG

We report below in summary about the papers published between July and September 2015 by ArbitralWomen members in the Kluwer Arbitration Blog: [www.kluwerarbitrationblog.com](http://www.kluwerarbitrationblog.com). The full papers may be found either on [ArbitralWomen's dedicated web page](#), or by clicking on the hyperlink for each title below.

### [TTIP: The French Proposal For A Permanent European Court for Investment Arbitration](#)

*By Athina Papaefstratiou Fouchard*

*Posting of 22 July 2015*

On 2 June 2015, the French Minister of Foreign Trade, Matthias Fekl, submitted to the European Commission a proposal regarding the Investor-State dispute settlement (ISDS) mechanism included in the project for a Transatlantic Trade Investment Partnership between the US and the EU (TTIP). The French Proposal is one further addition to the hot debate on the issue. The French proposal purports to address the main causes of public mistrust towards investor-State arbitration:

the alleged restriction of States' general regulatory power, conflicting awards, lack of transparency, arbitrators' conflicts of interest, as well as a most novel but most controversial proposal regarding the constitution of a permanent European court to handle investment arbitrations against the EU or a EU member State. This article examines the technicalities and effects of setting up such novel institution, and concludes that the establishment of an EU Permanent Court appears to raise as many issues as it purports to resolve.

### [The PRC's New Provisions on Recognition and Enforcement of Taiwan's Civil Judgments and Arbitral Awards](#)

*By Helena Chen*

*Posting of 25 August 2015*

To enforce a Taiwan award or civil judgment in mainland China, a party has to refer to PRC's regulations, which were released by the Supreme People's Court ("SPC") and have recently been amended. The new SPC's "Provisions on Recognition and Enforcement of Taiwan Courts' Civil Judgments" and "Provisions on Recognition and Enforcement of Arbitral Awards made in the Taiwan Region" (together hereinafter referred to as the "New Provisions") became effective on July 1, 2015, when the obsolete "Provisions on the People's Court's Recognition of Taiwan Courts' Civil Judgments" ("the Old Provisions") and their relevant regulations issued to explain or facilitate their application were repealed. The New Provisions vastly improve the relevant laws regarding recognition and enforcement of Taiwan courts' civil judgments and arbitral awards rendered in Taiwan. This note offers an introductory comparison of the key differences between the New Provisions and the Old Provisions.

### [What's Next? – Practical Ponderings on Arbitrators and Overturned Jurisdictional Awards](#)

*By Lara Pair*

*Posting of 31 August 2015*

There are a number of questions that influence how arbitration treats cases in which an award is challenged successfully. A court overturns an award declining jurisdiction, but what's next? The author argues that the easy and most practical answer would be for the arbitrator to resume the case and render an award on the merits. This conclusion however is not easy to justify.

In the author's view, which we invite you to discover on Kluwer Arbitration Blog, a general answer to “remand” the case to the original arbitrators is arguably not sufficient. Sometimes it may be more appropriate to appoint another tribunal, or even let the courts decide.

### [Hypochondria About the Place of Arbitration in Online Proceedings](#)

*By Mirèze Philippe*

*Posting of 16 September 2015*

Hypochondria is defined as an excessive preoccupation with one's health, usually focusing on some particular symptom. Could excessive preoccupation about the place of arbitration in online dispute resolution be assimilated to hypochondria? Are discussions that we hear from time to time and recently during the electronic conference on Technology in International Arbitration about defining the place of arbitration in online procedures justified? According to the author, the real question is not about the place, i.e. the venue, but about the legal framework meant to determine the law governing the procedure and the jurisdictional place in order for the award to be enforced in other states. With that setting in mind, whether the arbitration procedure is conducted online or offline makes no difference: the choice of the dispute resolution mechanism, the law applicable to the merits, the place of arbitration and thus the procedural law will be interpreted the same way. The only difference resides in the fact that the procedure is conducted in an online environment. From this perspective, the place of arbitration is a non-issue. The material place is independent from the law to govern the proceedings, irrespective of where the meeting or hearing may be held and whether it may be held at all.

### **Call for contributions**

***ArbitralWomen members who wish to contribute to the Kluwer Arbitration Blog may contact Ileana Smeureanu and indicate the subject and the date on which they commit to send us their contributions.***

*Ileana Smeureanu, associate, Jones Day*

## **ArbitralWomen launches Corporate Membership initiative**

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We have been delighted by the enthusiastic response we have received in relation to our corporate membership initiative. Initially offered only to firms listed in the Global Arbitration Review top 30 arbitration practices worldwide, this membership tier entitles firms to a discount on the cost of individual memberships. For 650 Euros annually, firms can designate up to five individual women from their practices to become members. The response has been overwhelmingly positive, with over half the firms already committed to taking out a corporate membership for 2016. We look forward to other firms demonstrating their commitment to diversity in 2016 and beyond.

*Lucy Greenwood, Norton Rose Fullbright US LLP, AW Marketing Director*

## MARK YOUR AGENDAS

The following events will be held in various locations worldwide. Save the dates and follow us on our website for further information on such events and others that we regularly add.

Date	Venue	Event
16 December 2015	CIArb London	Festive AW SpeedNet
14 January 2016	Herbert Smith Freehills, Paris	AW SpeedNet
20 January 2016 (to be confirmed)	Dubai	AW SpeedNet
27–29 January 2016	Miami	Annual ICDR Miami International Arbitration Conference
9 February 2016	Bryan Cave, London	Seminar on breaking the glass ceiling in international arbitration and networking drinks
13-14 February 2016	Costa Rica	ICC VII International Arbitration Conference
16 March 2016	Paris	ArbitralWomen International Conference
7/8 April 2016	Zurich	Young ArbitralWomen Practitioners (YAWP) launch and conference
12 April 2016	London	Queen Mary University of London seminar: “Arbitrating in the European Union: Leaving the rhetoric behind and building the realities ahead”
12 April 2016	Dubai	ICC Regional Conference, Breakfast Panel Discussion on Unconscious Bias

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